

ESTTA Tracking number: **ESTTA757990**Filing date: **07/13/2016**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Notice of Opposition**

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Popeyes Louisiana Kitchen, Inc.
Granted to Date of previous extension	07/13/2016
Address	400 Perimeter Center Terrace Suite 1000 Atlanta, GA 30346 UNITED STATES
Attorney information	CHRISTIANE S CAMPBELL DUANE MORRIS LLP 30 SOUTH 17 STREET PHILADELPHIA, PA 19103 UNITED STATES ccampbell@duanemorris.com, kckline@duanemorris.com, tdmkatlanta@duanemorris.com, ipdocketing@duanemorris.com Phone:215-979-1000

Applicant Information

Application No	86735022	Publication date	03/15/2016
Opposition Filing Date	07/13/2016	Opposition Period Ends	07/13/2016
Applicant	Noosa Yoghurt, LLC P.O. Box 403 Bellvue, CO 80512 UNITED STATES		

Goods/Services Affected by Opposition

Class 029. First Use: 0 First Use In Commerce: 0
All goods and services in the class are opposed, namely: Yoghurt; yoghurt-based products in the nature of beverages and dips

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1563625	Application Date	03/16/1989
Registration Date	10/31/1989	Foreign Priority Date	NONE
Word Mark	SWEET HEAT		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 030. First use: First Use: 1988/10/15 First Use In Commerce: 1988/11/14 SPICES AND SEASONINGS

U.S. Registration No.	4170198	Application Date	04/28/2011
Registration Date	07/10/2012	Foreign Priority Date	NONE

Word Mark	SWEET HEAT
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Design Mark	
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Description of Mark	NONE
Goods/Services	Class 029. First use: First Use: 2005/07/00 First Use In Commerce: 2005/07/00 Prepared chicken and seafood for consumption on or off the premises Class 030. First use: First Use: 1988/10/15 First Use In Commerce: 1988/11/14 Spices and sauces Class 043. First use: First Use: 2005/07/00 First Use In Commerce: 2005/07/00 Restaurant and catering services

Attachments	85307522#TMSN.png(bytes) E4833-00103 Notice of Opposition.pdf(282900 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Karen C. Kline/
Name	Karen C. Kline
Date	07/13/2016

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Application Serial No. 86/735022

Filed: August 24, 2015

For the mark: SWEET HEAT

Published in the Official Gazette on: March 15, 2016

POPEYES LOUISIANA KITCHEN, INC.

Opposer

v.

NOOSA YOGHURT, LLC

Applicant

Opposition No: _____

NOTICE OF OPPOSITION

Opposer, Popeyes Louisiana Kitchen, Inc., a corporation organized and existing under the laws of the State of Minnesota, having an address at 400 Perimeter Center Terrace, Suite 1000, Atlanta, Georgia 30346 (hereinafter “Opposer” or “Popeyes”), believes that it will be damaged by registration of SWEET HEAT as a trademark covering yoghurt and yoghurt-based products in the nature of beverages and dips, in International Class 29, as shown in U.S. Application Serial No. 86/735022 (“Subject Application”), and hereby opposes registration of the same by Applicant, Noosa Yoghurt, LLC, a limited liability company of Colorado, having an address at P.O. Box 403, Bellvue, Colorado 80512 (hereinafter “Applicant”).

As grounds for the opposition, Popeyes, through its counsel, alleges that:

1. Popeye’s SWEET HEAT mark has been used continuously in the United States by Popeyes and its predecessors-in-interest and/or their licensees since at least as early as

November 1988 to identify the goods of Popeyes and to distinguish its goods from the goods and services of others.

2. In connection therewith, Popeyes is the owner of U.S. Trademark Registration No. 1,563,625 for the SWEET HEAT trademark covering “spices and seasonings” in International Class 30, filed on March 16, 1989 and registered on October 31, 1989. Copies of the Registration Certificate and TSDR status printout from the USPTO database are attached hereto as **Exhibit A**.
3. Popeyes is also the owner of U.S. Trademark Registration No. 4,170,198 for the SWEET HEAT trademark covering “prepared chicken and seafood for consumption on or off the premises” in International Class 29, “spices and sauces” in International Class 30 and “restaurants and catering services” in International Class 43, filed on April 28, 2011 and registered on July 10, 2012. Copies of the Registration Certificate and TSDR status printout from the USPTO database are attached hereto as **Exhibit B**.
4. Popeyes’ SWEET HEAT mark is a distinctive and strong mark recognizable to consumers all over the United States and elsewhere in the world.
5. Popeyes’ SWEET HEAT mark is used in marketing and promotions for Popeyes’ goods and services throughout the United States, including within numerous restaurant locations and at Popeyes’ website located at Uniform Resource Locator (“URL”) www.popeyes.com.
6. By virtue of Popeyes’ long-time use and promotion of its SWEET HEAT mark, Popeyes has established valuable goodwill in the mark, and the public has come to associate the

mark exclusively with Popeyes. As such, the public has come to know the SWEET HEAT mark as an indication of the food products and related food services that originate from Popeyes.

7. On August 24, 2015, Applicant filed the Subject Application to register the mark SWEET HEAT for “yoghurt; yoghurt-based products in the nature of beverages and dips” in International Class 29. The Subject Application was published for opposition on March 15, 2016. On April 14, 2016, the Trademark Trial and Appeal Board granted Popeyes’ request and extended the time to oppose the Subject Application to July 13, 2016.
8. The declaration that accompanied the Subject Application states that Applicant has a bona fide intention to use the mark in U.S. commerce. 15 U.S.C. § 1051(b). On information and belief, as of the date of filing this Notice of Opposition, no Amendment to Allege Use has been filed to declare or prove use of Applicant’s mark.
9. On information and belief, Applicant has not yet commenced use of the SWEET HEAT mark in U.S. commerce for all of the goods identified in the Subject Application.
10. Applicant’s proposed SWEET HEAT mark, as shown in the Subject Application, is identical and creates the same commercial impression as Popeyes’ SWEET HEAT mark.
11. The goods covered by the Subject Application are similar or related to the goods and services covered by Popeyes’ SWEET HEAT mark. Upon information and belief, the respective goods and services of the parties would be available to and marketed to the same or similar consumers in overlapping geographic markets.

12. Consumers are likely to be confused and deceived as to the source of goods and services offered in connection with Popeyes SWEET HEAT mark and the source of goods offered or proposed to be offered in connection with the Applicant's identical SWEET HEAT mark.
13. Upon information and belief, use of the Popeyes SWEET HEAT mark in U.S. commerce commenced more than twenty-five years before Applicant's filing of an application to register the SWEET HEAT mark; more than twenty-five years before any priority or constructive use date upon which Applicant could rely; and more than twenty-five years before any demonstration of use of Applicant's mark in U.S. commerce (which has not yet been demonstrated as of the date of this filing).
14. The Subject Application incorporates a mark previously used in the United States, namely Popeyes' SWEET HEAT mark. Applicant's SWEET HEAT mark is applied-for and intended for use in connection with goods similar or related to those goods and services offered by Popeyes under its SWEET HEAT mark, and is therefore likely to confuse, deceive or mislead purchasers or prospective purchasers with regard to source, sponsorship or affiliation by or between Popeyes and Applicant, in violation of Section 2(d) of the Trademark Act, 15 U.S.C. §1052(d).

15. As a result, the grant of registration to Applicant will cause substantial damage and injury to Popeyes and Applicant is not entitled to registration for the claimed mark.

WHEREFORE, Popeyes respectfully requests that this opposition be sustained and that the Subject Application for registration of the snowflake design be denied.

Respectfully submitted,

DUANE MORRIS LLP

By: /Karen C. Kline/
Karen C. Kline

Dated: July 13, 2016

Attorneys for Opposer,
Popeyes Louisiana Kitchen, Inc.

Christiane S. Campbell
Karen C. Kline
30 South 17th Street
Philadelphia, PA 19103
(tel) 215.979.1000
(fax) 215.979.1020
ccampbell@duanemorris.com
kckline@duanemorris.com

CERTIFICATE OF SERVICE

I, Karen C. Kline, Esq., counsel to Popeyes Louisiana Kitchen, Inc. in the above-captioned proceeding, hereby certify that, on the 13th day of July, 2016, I served a copy of the foregoing Notice of Opposition, by first class mail (postage prepaid), upon the following individual identified in the Subject Application as the attorney of record and the correspondent:

Bassam N. Ibrahim
Buchanan Ingersoll & Rooney PC
1737 King St Ste 500
Alexandria, Virginia 22314-2727

With a courtesy copy sent via e-mail to bassam.ibrahim@bipc.com

By: /Karen C. Kline/
Karen C. Kline

EXHIBIT A

Int. Cl.: 30

Prior U.S. Cl.: 46

United States Patent and Trademark Office **Reg. No. 1,563,625**
Registered Oct. 31, 1989

**TRADEMARK
PRINCIPAL REGISTER**

SWEET HEAT

SWEET HEAT SPICE CO. (PENNSYLVANIA
CORPORATION)
SUITE 102
216 N. 4TH ST.
EMMAUS, PA 18049

FIRST USE 10-15-1988; IN COMMERCE
11-14-1988.

SER. NO. 787,015, FILED 3-16-1989.

FOR: SPICES AND SEASONINGS, IN CLASS
30 (U.S. CL. 46).

ROBERT F. GARCIA, EXAMINING ATTOR-
NEY

Generated on: This page was generated by TSDR on 2016-07-12 18:38:55 EDT

Mark: SWEET HEAT

US Serial Number: 73787015

Application Filing Date: Mar. 16, 1989

US Registration Number: 1563625

Registration Date: Oct. 31, 1989

Register: Principal

Mark Type: Trademark

Status: The registration has been renewed.

Status Date: May 04, 2010

Publication Date: Aug. 08, 1989

Mark Information

Mark Literal Elements: SWEET HEAT

Standard Character Claim: No

Mark Drawing Type: 1 - TYPESET WORD(S) /LETTER(S) /NUMBER(S)

Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis (()) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *..* identify additional (new) wording in the goods/services.

For: SPICES AND SEASONINGS

International Class(es): 030 - Primary Class

U.S Class(es): 046

Class Status: ACTIVE

Basis: 1(a)

First Use: Oct. 15, 1988

Use in Commerce: Nov. 14, 1988

Basis Information (Case Level)

Filed Use: Yes

Currently Use: Yes

Amended Use: No

Filed ITU: No

Currently ITU: No

Amended ITU: No

Filed 44D: No

Currently 44D: No

Amended 44D: No

Filed 44E: No

Currently 44E: No

Amended 44E: No

Filed 66A: No

Currently 66A: No

Filed No Basis: No

Currently No Basis: No

Current Owner(s) Information

Owner Name: POPEYES LOUISIANA KITCHEN, INC.

Owner Address: 400 PERIMETER CENTER TERRACE
SUITE 1000
ATLANTA, GEORGIA 30346
UNITED STATES

Legal Entity Type: CORPORATION

State or Country MINNESOTA
Where Organized:

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Christiane S. Campbell

Attorney Primary tdmkatlanta@duanemorris.com
Email Address:

Attorney Email Yes
Authorized:

Correspondent

Correspondent Christiane S. Campbell
Name/Address: Duane Morris LLP
1075 Peachtree Street
Suite 2000
Atlanta, GEORGIA 30309
UNITED STATES

Phone: 215-979-1817

Fax: 404-253-6925

Correspondent e-mail: tdmkatlanta@duanemorris.com

Correspondent e-mail Yes
Authorized:

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Feb. 05, 2014	AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP	
Jan. 27, 2014	ATTORNEY REVOKED AND/OR APPOINTED	
Jan. 27, 2014	TEAS REVOKE/APPOINT ATTORNEY RECEIVED	
Jan. 08, 2014	ASSIGNMENT OF OWNERSHIP NOT UPDATED AUTOMATICALLY	
Oct. 02, 2012	ATTORNEY REVOKED AND/OR APPOINTED	
Oct. 02, 2012	TEAS REVOKE/APPOINT ATTORNEY RECEIVED	
Jan. 12, 2011	ASSIGNMENT OF OWNERSHIP NOT UPDATED AUTOMATICALLY	
May 04, 2010	REGISTERED AND RENEWED (FIRST RENEWAL - 10 YRS)	70131
May 04, 2010	REGISTERED - SEC. 8 (10-YR) ACCEPTED/SEC. 9 GRANTED	
Apr. 28, 2010	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	70131
Apr. 27, 2010	TEAS SECTION 8 & 9 RECEIVED	
Dec. 01, 2008	CASE FILE IN TICRS	
Nov. 19, 2008	ATTORNEY REVOKED AND/OR APPOINTED	
Nov. 19, 2008	TEAS REVOKE/APPOINT ATTORNEY RECEIVED	
May 18, 2006	ATTORNEY REVOKED AND/OR APPOINTED	
May 18, 2006	TEAS REVOKE/APPOINT ATTORNEY RECEIVED	
Mar. 22, 2005	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
May 31, 1996	REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.	
Oct. 30, 1995	REGISTERED - SEC. 8 (6-YR) FILED	
Oct. 31, 1989	REGISTERED-PRINCIPAL REGISTER	
Aug. 08, 1989	PUBLISHED FOR OPPOSITION	
Jul. 09, 1989	NOTICE OF PUBLICATION	
May 09, 1989	APPROVED FOR PUB - PRINCIPAL REGISTER	
Apr. 28, 1989	EXAMINER'S AMENDMENT MAILED	
Apr. 26, 1989	ASSIGNED TO EXAMINER	66592

Maintenance Filings or Post Registration Information

Affidavit of Section 8 - Accepted
Continued Use:

Affidavit of Section 15 - Accepted

Incontestability:

Renewal Date: Oct. 31, 2009

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: GENERIC WEB UPDATE

Date in Location: May 04, 2010

Assignment Abstract Of Title Information

Summary

Total Assignments: 14

Registrant: SWEET HEAT SPICE CO.

Assignment 1 of 14

Conveyance: ASSIGNS THE ENTIRE INTEREST

Reel/Frame: [1400/0819](#)

Pages: 2

Date Recorded: Oct. 17, 1995

Supporting Documents: No Supporting Documents Available

Assignor

Name: [SWEET HEAT SPICE CO.](#)

Execution Date: Oct. 06, 1995

Legal Entity Type: CORPORATION

State or Country Where Organized: PENNSYLVANIA

Assignee

Name: [MOY, JAMES](#)

Legal Entity Type: INDIVIDUAL

Citizenship: UNITED STATES

Address: 50-28 97TH STREET
ELMHURST, NEW YORK 11368

Correspondent

Correspondent Name: TUCKER, FLYER & LEWIS, P.C.

Correspondent Address: HENRY W. LEEDS, ESQ.
1615 L STREET, N.W.
WASHINGTON, D.C. 20036

Domestic Representative - Not Found

Assignment 2 of 14

Conveyance: ASSIGNS THE ENTIRE INTEREST

Reel/Frame: [1400/0829](#)

Pages: 2

Date Recorded: Oct. 17, 1995

Supporting Documents: No Supporting Documents Available

Assignor

Name: [MOY, JAMES](#)

Execution Date: Oct. 09, 1995

Legal Entity Type: INDIVIDUAL

Citizenship: UNITED STATES

Assignee

Name: [AMERICA'S FAVORITE CHICKEN COMPANY](#)

Legal Entity Type: CORPORATION

State or Country Where Organized: MINNESOTA

Address: 6 CONCOURSE PARKWAY
ATLANTA, GEORGIA 30328

Correspondent

Correspondent Name: HENRY W. LEEDS, ESQ.

Correspondent Address: TUCKER, FLYER & LEWIS, P.C.
1615 L STREET, N.W.
WASHINGTON, DC 20036

Domestic Representative - Not Found**Assignment 3 of 14****Conveyance:** CHANGE OF NAME**Reel/Frame:** [2521/0672](#)**Pages:** 4**Date Recorded:** Jun. 04, 2002**Supporting Documents:** [assignment-tm-2521-0672.pdf](#)**Assignor****Name:** [AMERICA'S FAVORITE CHICKEN COMPANY](#)**Execution Date:** Oct. 07, 1996**Legal Entity Type:** CORPORATION**State or Country Where Organized:** MINNESOTA**Assignee****Name:** [AFC ENTERPRISES, INC.](#)**Legal Entity Type:** CORPORATION**State or Country Where Organized:** MINNESOTA**Address:** SUITE 1700
SIX CONCOURSE PARKWAY
ATLANTA, GEORGIA 30328-5352**Correspondent****Correspondent Name:** NEEDLE & ROSENBERG, P.C.**Correspondent Address:** MARK L. SEIGEL
SUITE 1200, THE CANDLER BUILDING
127 PEACHTREE STREET, N.E.
ATLANTA, GEORGIA 30303-1811**Domestic Representative - Not Found****Assignment 4 of 14****Conveyance:** TRADEMARK SECURITY AGREEMENT**Reel/Frame:** [1590/0224](#)**Pages:** 26**Date Recorded:** May 30, 1997**Supporting Documents:** No Supporting Documents Available**Assignor****Name:** [AFC ENTERPRISES, INC.](#)**Execution Date:** May 21, 1997**Legal Entity Type:** CORPORATION**State or Country Where Organized:** MINNESOTA**Assignee****Name:** [CANADIAN IMPERIAL BANK OF COMMERCE, AS ADMINISTRATIVE AGENT](#)**Legal Entity Type:** UNKNOWN**State or Country Where Organized:** No Place Where Organized Found**Address:** 425 LEXINGTON AVENUE
NEW YORK, NEW YORK 10017**Correspondent****Correspondent Name:** O'MELVENY & MYERS LLP**Correspondent Address:** JOHN HALPIN
CITICORP CENTER
153 EAST 53RD ST., 54TH FLOOR
NEW YORK, NY 10022**Domestic Representative - Not Found****Assignment 5 of 14****Conveyance:** SECURITY AGREEMENT**Reel/Frame:** [2679/0526](#)**Pages:** 55**Date Recorded:** Jul. 03, 2003**Supporting Documents:** [assignment-tm-2679-0526.pdf](#)**Assignor**

Name: AFC ENTERPRISES, INC.	Execution Date: May 23, 2002
Legal Entity Type: CORPORATION	State or Country Where Organized: MINNESOTA
Name: AFC PROPERTIES, INC.	Execution Date: May 23, 2002
Legal Entity Type: CORPORATION	State or Country Where Organized: GEORGIA
Name: AFC OF LOUISIANA, LLC	Execution Date: May 23, 2002
Legal Entity Type: LIMITED LIABILITY COMPANY	State or Country Where Organized: GEORGIA
Name: CHURCH'S TEXAS HOLDINGS, LLC	Execution Date: May 23, 2002
Legal Entity Type: LIMITED LIABILITY COMPANY	State or Country Where Organized: GEORGIA
Name: AFC HOLDINGS OF TEXAS, LLC	Execution Date: May 23, 2002
Legal Entity Type: LIMITED LIABILITY COMPANY	State or Country Where Organized: GEORGIA
Name: CINNABON INTERNATIONAL, INC.	Execution Date: May 23, 2002
Legal Entity Type: CORPORATION	State or Country Where Organized: DELAWARE
Name: CT RESTAURANTS, L.P.	Execution Date: May 23, 2002
Legal Entity Type: LIMITED PARTNERSHIP	State or Country Where Organized: TEXAS
Name: CINNABON, INC.	Execution Date: May 23, 2002
Legal Entity Type: CORPORATION	State or Country Where Organized: WASHINGTON
Assignee	
Name: JPMORGAN CHASE BANK LOAN AND AGENCY SERVICES GROUP	
Legal Entity Type: BANK	State or Country Where Organized: No Place Where Organized Found
Address: ONE CHASE MANHATTAN PLAZA, 8TH FL. NEW YORK, NEW YORK 10081	
Correspondent	
Correspondent Name: SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP	
Correspondent Address: JAMES TALBOT FOUR TIMES SQUARE NEW YORK, NEW YORK 10036-6522	
Domestic Representative - Not Found	
Assignment 6 of 14	
Conveyance: RELEASE BY SECURED PARTY	
Reel/Frame: 2680/0173	Pages: 11
Date Recorded: Jul. 03, 2003	
Supporting Documents: assignment-tm-2680-0173.pdf	
Assignor	
Name: CANADIAN IMPERIAL BANK OF COMMERCE	Execution Date: May 23, 2002
Legal Entity Type: CANADIAN CHARTERED BANK	State or Country Where Organized: No Place Where Organized Found
Assignee	
Name: AFC ENTERPRISES, INC. F/K/A AMERICA'S FAVORITE CHICKEN COMPANY, INC.	
Legal Entity Type: CORPORATION	State or Country Where Organized: MINNESOTA
Address: SIX CONCOURSE PARKWAY SUITE 1700 ATLANTA, GEORGIA 30328	
Correspondent	

Correspondent Name: SKADDEN, ARPS, SLATE, ET AL.

Correspondent Address: JAMES TALBOT
FOUR TIMES SQUARE
NEW YORK, NY 10036-6522

Domestic Representative - Not Found

Assignment 7 of 14

Conveyance: SECURITY INTEREST

Reel/Frame: [2780/0218](#)

Pages: 113

Date Recorded: Jul. 21, 2003

Supporting Documents: [assignment-tm-2780-0218.pdf](#)

Assignor

Name: [AFC ENTERPRISES, INC.](#)

Execution Date: May 23, 2002

Legal Entity Type: CORPORATION

State or Country Where Organized: MINNESOTA

Name: [AFC PROPERTIES, INC.](#)

Execution Date: May 23, 2002

Legal Entity Type: CORPORATION

State or Country Where Organized: GEORGIA

Name: [AFC OF LOUISIANA, LLC](#)

Execution Date: May 23, 2002

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized: GEORGIA

Name: [CHURCH'S TEXAS HOLDING, LLC](#)

Execution Date: May 23, 2002

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized: GEORGIA

Name: [AFC HOLDINGS OF TEXAS, LLC](#)

Execution Date: May 23, 2002

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized: GEORGIA

Name: [CINNABON INTERNATIONAL, INC.](#)

Execution Date: May 23, 2002

Legal Entity Type: CORPORATION

State or Country Where Organized: DELAWARE

Name: [CT RESTAURANTS, L.P.](#)

Execution Date: May 23, 2002

Legal Entity Type: LIMITED PARTNERSHIP

State or Country Where Organized: TEXAS

Name: [CINNABON, INC.](#)

Execution Date: May 23, 2002

Legal Entity Type: CORPORATION

State or Country Where Organized: WASHINGTON

Assignee

Name: [JPMORGAN CHASE BANK](#)

Legal Entity Type: A BANK

State or Country Where Organized: No Place Where Organized Found

Address: ONE CHASE MANHATTAN PLAZA, 8TH FLOOR
LOAN AND AGENCY SERVICES GROUP
NEW YORK, NEW YORK 10081

Correspondent

Correspondent Name: SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP

Correspondent Address: JAMES TALBOT, ESQ.
FOUR TIMES SQUARE
NEW YORK, NEW YORK 10036-6522

Domestic Representative - Not Found

Assignment 8 of 14

Conveyance: RELEASE OF SECURITY INTEREST AT REEL/FRAAME NOS. 2679/0526 AND 2780/0218

Reel/Frame: [3085/0630](#)

Pages: 8

Date Recorded: May 16, 2005

Supporting [assignment-tm-3085-0630.pdf](#)
Documents:

Assignor

Name: [JPMORGAN CHASE BANK, N.A.](#)
Legal Entity Type: NATIONAL BANK
Execution Date: May 11, 2005
State or Country Where Organized: No Place Where Organized Found
DBA, AKA, TA, Formerly: FORMERLY JPMORGAN CHASE BANK

Assignee

Name: [AFC ENTERPRISES, INC.](#)
Legal Entity Type: CORPORATION
State or Country Where Organized: MINNESOTA
Address: 6 CONCOURSE PARKWAY
SUITE 1700
ATLANTA, GEORGIA 30328

Correspondent

Correspondent Name: LATHAM & WATKINS LLP
Correspondent Address: 650 TOWN CENTER DRIVE
SUITE 2000
COSTA MESA, CA 92626

Domestic Representative - Not Found

Assignment 9 of 14

Conveyance: SECURITY INTEREST
Reel/Frame: [3086/0182](#) **Pages:** 12
Date Recorded: May 17, 2005
Supporting Documents: [assignment-tm-3086-0182.pdf](#)

Assignor

Name: [AFC ENTERPRISES, INC.](#)
Legal Entity Type: CORPORATION
Execution Date: May 11, 2005
State or Country Where Organized: MINNESOTA

Assignee

Name: [JPMORGAN CHASE BANK, N.A., AS COLLATERAL AGENT](#)
Legal Entity Type: NATIONAL BANK
State or Country Where Organized: No Place Where Organized Found
Address: 270 PARK AVENUE
5TH FLOOR
NEW YORK, NEW YORK 10017

Correspondent

Correspondent Name: LATHAM & WATKINS LLP
Correspondent Address: 650 TOWN CENTER DRIVE
SUITE 2000
COSTA MESA, CA 92626

Domestic Representative - Not Found

Assignment 10 of 14

Conveyance: SECURITY INTEREST
Reel/Frame: [4444/0450](#) **Pages:** 14
Date Recorded: Jan. 04, 2011
Supporting Documents: [assignment-tm-4444-0450.pdf](#)

Assignor

Name: [AFC ENTERPRISES, INC.](#)
Legal Entity Type: CORPORATION
Execution Date: Dec. 23, 2010
State or Country Where Organized: MINNESOTA

Assignee

Name: [JPMORGAN CHASE BANK, N.A., AS COLLATERAL AGENT](#)

Legal Entity Type: NATIONAL BANK

State or Country Where Organized: NEW YORK

Address: 270 PARK AVE.
5TH FLOOR
NEW YORK, NEW YORK 10017

Correspondent

Correspondent Name: WAYNE CHANG

Correspondent Address: ONE CHASE MANHATTAN PLAZA
MILBANK, TWEED, HADLEY & MCCLOY LLP
NEW YORK, NY 10005-1413

Domestic Representative - Not Found

Assignment 11 of 14

Conveyance: RELEASE OF SECURITY INTEREST AT REEL/FRAME NO. 003086/0182

Reel/Frame: [4444/0464](#)

Pages: 20

Date Recorded: Jan. 04, 2011

Supporting Documents: [assignment-tm-4444-0464.pdf](#)

Assignor

Name: [JPMORGAN CHASE BANK, N.A., AS COLLATERAL AGENT](#)

Execution Date: Dec. 23, 2010

Legal Entity Type: NATIONAL BANK

State or Country Where Organized: No Place Where Organized Found

Assignee

Name: [AFC ENTERPRISES, INC.](#)

Legal Entity Type: CORPORATION

State or Country Where Organized: MINNESOTA

Address: 5555 GLENRIDGE CONNECTOR
SUITE 300
ATLANTA, GEORGIA 30342

Correspondent

Correspondent Name: WAYNE CHANG

Correspondent Address: ONE CHASE MANHATTAN PLAZA
MILBANK, TWEED, HADLEY & MCCLOY LLP
NEW YORK, NY 10005-1413

Domestic Representative - Not Found

Assignment 12 of 14

Conveyance: TERMINATION OF SECURITY INTEREST IN TRADEMARKS

Reel/Frame: [5178/0137](#)

Pages: 8

Date Recorded: Dec. 19, 2013

Supporting Documents: [assignment-tm-5178-0137.pdf](#)

Assignor

Name: [JPMORGAN CHASE BANK, N.A., AS COLLATERAL AGENT](#)

Execution Date: Dec. 18, 2013

Legal Entity Type: NATIONAL BANKING ASSOCIATION

State or Country Where Organized: UNITED STATES

Assignee

Name: [AFC ENTERPRISES, INC.](#)

Legal Entity Type: CORPORATION

State or Country Where Organized: MINNESOTA

Address: 400 PERIMETER CENTER TERRACE
SUITE 1000
ATLANTA, GEORGIA 30346

Correspondent

Correspondent MOORE & VAN ALLEN PLLC

Name:

Correspondent 430 DAVIS DRIVE
Address: SUITE 500
MORRISVILLE, NC 27560

Domestic Representative - Not Found

Assignment 13 of 14

Conveyance: NOTICE OF GRANT OF SECURITY INTEREST IN TRADEMARKS

Reel/Frame: [5178/0145](#)

Pages: 8

Date Recorded: Dec. 19, 2013

Supporting [assignment-tm-5178-0145.pdf](#)
Documents:

Assignor

Name: [AFC ENTERPRISES, INC.](#)

Execution Date: Dec. 18, 2013

Legal Entity Type: CORPORATION

State or Country MINNESOTA
Where Organized:

Assignee

Name: [WELLS FARGO BANK, NATIONAL ASSOCIATION, AS ADMINISTRATIVE AGENT](#)

Legal Entity Type: NATIONAL BANKING ASSOCIATION

State or Country UNITED STATES
Where Organized:

Address: 1700 LINCOLN STREET, 3RD FLOOR
MAIL CODE: C7300-033
DENVER, COLORADO 80203

Correspondent

Correspondent MOORE & VAN ALLEN PLLC
Name:

Correspondent 430 DAVIS DRIVE
Address: SUITE 500
MORRISVILLE, NC 27560

Domestic Representative - Not Found

Assignment 14 of 14

Conveyance: CHANGE OF NAME

Reel/Frame: [5200/0740](#)

Pages: 4

Date Recorded: Jan. 24, 2014

Supporting [assignment-tm-5200-0740.pdf](#)
Documents:

Assignor

Name: [AFC ENTERPRISES, INC.](#)

Execution Date: Jan. 17, 2014

Legal Entity Type: CORPORATION

State or Country MINNESOTA
Where Organized:

Assignee

Name: [POPEYES LOUISIANA KITCHEN, INC.](#)

Legal Entity Type: CORPORATION

State or Country MINNESOTA
Where Organized:

Address: 400 PERIMETER CENTER TERRACE
SUITE 1000
ATLANTA, GEORGIA 30346

Correspondent

Correspondent CHRISTIANE SCHUMAN CAMPBELL
Name:

Correspondent DUANE MORRIS LLP, 1075 PEACHTREE STREET
Address: SUITE 2000
ATLANTA, GA 30309

Domestic Representative - Not Found

Proceedings

Summary

Number of 1

Proceedings:**Type of Proceeding: Opposition****Proceeding Number:** [91212890](#)**Filing Date:** Oct 09, 2013**Status:** Terminated**Status Date:** Jan 21, 2014**Interlocutory Attorney:** BENJAMIN U OKEKE**Defendant****Name:** Hansen Family Recipes, Inc.**Correspondent Address:** JEFFERY JACOBSON
PARMENTER O'TOOLE
601 TERRACE STREET
MUSKEGON MI , 49440-1192
UNITED STATES**Correspondent e-mail:** jjaj@parmenterlaw.com**Associated marks**

Mark	Application Status	Serial Number	Registration Number
HANSEN'S DOWN HOME SWEET HEAT	Abandoned - After Inter-Partes Decision	85812129	

Plaintiff(s)**Name:** AFC Enterprises, Inc.**Correspondent Address:** VANESSA C HEW
DUANE MORRIS LLP
1075 PEACHTREE STREET , SUITE 2000
ATLANTA GA , 30309
UNITED STATES**Correspondent e-mail:** tdmkatlanta@duanemorris.com , vchew@duanemorris.com , ipvega@duanemorris.com , ipdocketing@duanemorris.com**Associated marks**

Mark	Application Status	Serial Number	Registration Number
SWEET HEAT	Renewed	73787015	1563625
SWEET HEAT	Registered	85307522	4170198

Prosecution History

Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Oct 09, 2013	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Oct 09, 2013	Nov 18, 2013
3	PENDING, INSTITUTED	Oct 09, 2013	
4	NOTICE OF DEFAULT	Dec 05, 2013	
5	BD DECISION: SUSTAINED	Jan 21, 2014	
6	TERMINATED	Jan 21, 2014	

EXHIBIT B

United States of America

United States Patent and Trademark Office

SWEET HEAT

Reg. No. 4,170,198

Registered July 10, 2012

Int. Cls.: 29, 30 and 43

TRADEMARK

SERVICE MARK

PRINCIPAL REGISTER

AFC ENTERPRISES, INC. (MINNESOTA CORPORATION)
400 PERIMETER CENTER TERRACE
SUITE 1000
ATLANTA, GA 30346

FOR: PREPARED CHICKEN AND SEAFOOD FOR CONSUMPTION ON OR OFF THE PREMISES, IN CLASS 29 (U.S. CL. 46).

FIRST USE 7-0-2005; IN COMMERCE 7-0-2005.

FOR: SPICES AND SAUCES, IN CLASS 30 (U.S. CL. 46).

FIRST USE 10-15-1988; IN COMMERCE 11-14-1988.

FOR: RESTAURANT AND CATERING SERVICES, IN CLASS 43 (U.S. CLS. 100 AND 101).

FIRST USE 7-0-2005; IN COMMERCE 7-0-2005.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NO. 1,563,625.

SER. NO. 85-307,522, FILED 4-28-2011.

JOHN GARTNER, EXAMINING ATTORNEY



David J. Kyfos

Director of the United States Patent and Trademark Office

**REQUIREMENTS TO MAINTAIN YOUR FEDERAL
TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE
DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

Requirements in the First Ten Years*
What and When to File:

First Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. *See* 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.

Second Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between the 9th and 10th years after the registration date.*
See 15 U.S.C. §1059.

Requirements in Successive Ten-Year Periods*
What and When to File:

You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.*

Grace Period Filings*

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

**The United States Patent and Trademark Office (USPTO) will NOT send you any future notice or
reminder of these filing requirements.**

***ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the USPTO. The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. *See* 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. *See* 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.

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Mark: SWEET HEAT

SWEET HEAT

US Serial Number: 85307522

Application Filing Date: Apr. 28, 2011

US Registration Number: 4170198

Registration Date: Jul. 10, 2012

Register: Principal

Mark Type: Trademark, Service Mark

TM5 Common Status Descriptor:



LIVE/REGISTRATION/Issued and Active

The trademark application has been registered with the Office.

Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Status Date: Jul. 10, 2012

Publication Date: Apr. 24, 2012

Mark Information

Mark Literal Elements: SWEET HEAT

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Related Properties Information

Claimed Ownership of US Registrations: 1563625

Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *...* identify additional (new) wording in the goods/services.

For: Prepared chicken and seafood for consumption on or off the premises

International Class(es): 029 - Primary Class

U.S Class(es): 046

Class Status: ACTIVE

Basis: 1(a)

First Use: Jul. 2005

Use in Commerce: Jul. 2005

For: Spices and sauces

International Class(es): 030 - Primary Class

U.S Class(es): 046

Class Status: ACTIVE

Basis: 1(a)

First Use: Oct. 15, 1988

Use in Commerce: Nov. 14, 1988

For: Restaurant and catering services

International Class(es): 043 - Primary Class

U.S Class(es): 100, 101

Class Status: ACTIVE

Basis: 1(a)

First Use: Jul. 2005

Use in Commerce: Jul. 2005

Basis Information (Case Level)

Filed Use: Yes

Currently Use: Yes

Amended Use: No

Filed ITU: No

Currently ITU: No

Amended ITU: No

Filed 44D: No

Currently 44D: No

Amended 44D: No

Filed 44E: No

Currently 44E: No

Amended 44E: No

Filed 66A: No

Currently 66A: No

Filed No Basis: No

Currently No Basis: No

Current Owner(s) Information

Owner Name: POPEYES LOUISIANA KITCHEN, INC.

Owner Address: 400 PERIMETER CENTER TERRACE
SUITE 1000
ATLANTA, GEORGIA UNITED STATES 30346

Legal Entity Type: CORPORATION

State or Country Where Organized: MINNESOTA

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Christiane S. Campbell

Attorney Primary Email Address: tdmkatlanta@duanemorris.com

Attorney Email Authorized: Yes

Correspondent

Correspondent Name/Address: Christiane S. Campbell
Duane Morris LLP
1075 Peachtree Street
Suite 2000
Atlanta, GEORGIA UNITED STATES 30309

Phone: 215-979-1817

Fax: 404-253-6925

Correspondent e-mail: tdmkatlanta@duanemorris.com

Correspondent e-mail Authorized: Yes

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Feb. 05, 2014	AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP	
Jan. 27, 2014	ATTORNEY REVOKED AND/OR APPOINTED	
Jan. 27, 2014	TEAS REVOKE/APPOINT ATTORNEY RECEIVED	
Jan. 08, 2014	ASSIGNMENT OF OWNERSHIP NOT UPDATED AUTOMATICALLY	
Oct. 02, 2012	ATTORNEY REVOKED AND/OR APPOINTED	
Oct. 02, 2012	TEAS REVOKE/APPOINT ATTORNEY RECEIVED	
Jul. 10, 2012	REGISTERED-PRINCIPAL REGISTER	
Apr. 24, 2012	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
Apr. 24, 2012	PUBLISHED FOR OPPOSITION	
Apr. 04, 2012	NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED	
Mar. 21, 2012	LAW OFFICE PUBLICATION REVIEW COMPLETED	69712
Mar. 21, 2012	ASSIGNED TO LIE	69712
Mar. 05, 2012	APPROVED FOR PUB - PRINCIPAL REGISTER	
Feb. 10, 2012	TEAS/EMAIL CORRESPONDENCE ENTERED	88889

Feb. 10, 2012	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Feb. 10, 2012	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Aug. 15, 2011	NOTIFICATION OF NON-FINAL ACTION E-MAILED	6325
Aug. 15, 2011	NON-FINAL ACTION E-MAILED	6325
Aug. 15, 2011	NON-FINAL ACTION WRITTEN	77769
Aug. 09, 2011	ASSIGNED TO EXAMINER	77769
May 04, 2011	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
May 02, 2011	NEW APPLICATION ENTERED IN TRAM	

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: PUBLICATION AND ISSUE SECTION

Date in Location: Jul. 10, 2012

Assignment Abstract Of Title Information

Summary

Total Assignments: 2

Registrant: AFC Enterprises, Inc.

Assignment 1 of 2

Conveyance: NOTICE OF GRANT OF SECURITY INTEREST IN TRADEMARKS

Reel/Frame: [5178/0145](#)

Pages: 8

Date Recorded: Dec. 19, 2013

Supporting Documents: [assignment-tm-5178-0145.pdf](#)

Assignor

Name: [AFC ENTERPRISES, INC.](#)

Execution Date: Dec. 18, 2013

Legal Entity Type: CORPORATION

State or Country Where Organized: MINNESOTA

Assignee

Name: [WELLS FARGO BANK, NATIONAL ASSOCIATION, AS ADMINISTRATIVE AGENT](#)

Legal Entity Type: NATIONAL BANKING ASSOCIATION

State or Country Where Organized: UNITED STATES

Address: 1700 LINCOLN STREET, 3RD FLOOR
MAIL CODE: C7300-033
DENVER, COLORADO 80203

Correspondent

Correspondent Name: MOORE & VAN ALLEN PLLC

Correspondent Address: 430 DAVIS DRIVE
SUITE 500
MORRISVILLE, NC 27560

Domestic Representative - Not Found

Assignment 2 of 2

Conveyance: CHANGE OF NAME

Reel/Frame: [5200/0740](#)

Pages: 4

Date Recorded: Jan. 24, 2014

Supporting Documents: [assignment-tm-5200-0740.pdf](#)

Assignor

Name: [AFC ENTERPRISES, INC.](#)

Execution Date: Jan. 17, 2014

Legal Entity Type: CORPORATION

State or Country Where Organized: MINNESOTA

Assignee

Name: [POPEYES LOUISIANA KITCHEN, INC.](#)

Legal Entity Type: CORPORATION

State or Country Where Organized: MINNESOTA

Address: 400 PERIMETER CENTER TERRACE
SUITE 1000
ATLANTA, GEORGIA 30346

Correspondent

Correspondent Name: CHRISTIANE SCHUMAN CAMPBELL

Correspondent Address: DUANE MORRIS LLP, 1075 PEACHTREE STREET
SUITE 2000
ATLANTA, GA 30309

Domestic Representative - Not Found

Proceedings

Summary

Number of Proceedings: 1

Type of Proceeding: Opposition

Proceeding Number: [91212890](#)

Filing Date: Oct 09, 2013

Status: Terminated

Status Date: Jan 21, 2014

Interlocutory Attorney: BENJAMIN U OKEKE

Defendant

Name: Hansen Family Recipes, Inc.

Correspondent Address: JEFFERY JACOBSON
PARMENTER O'TOOLE
601 TERRACE STREET
MUSKEGON MI UNITED STATES , 49440-1192

Correspondent e-mail: jjaj@parmenterlaw.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
HANSEN'S DOWN HOME SWEET HEAT	Abandoned - After Inter-Partes Decision	85812129	

Plaintiff(s)

Name: AFC Enterprises, Inc.

Correspondent Address: VANESSA C HEW
DUANE MORRIS LLP
1075 PEACHTREE STREET , SUITE 2000
ATLANTA GA UNITED STATES , 30309

Correspondent e-mail: tdmkatlanta@duanemorris.com , vchew@duanemorris.com , ipvega@duanemorris.com , ipdocketing@duanemorris.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
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SWEET HEAT	Registered	85307522	4170198

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3	PENDING, INSTITUTED	Oct 09, 2013	
4	NOTICE OF DEFAULT	Dec 05, 2013	
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6	TERMINATED	Jan 21, 2014	